IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 6427 of 2004

Between:

S.F.Ahamed Basha, s/o. late Syed Abbas Miyah,

Additional Assistant Engineer-Technical, TLC, Kurnool

Near 132 KVSS, Kurnool.

..... PETITIONER

AND

1)The Joint Managing Director, (H.R.D. Comml. IPC & Retrms),

Transmission Corporation of Andhra Pradesh, ITD,

Vidyut Soudha, Hyderabad-82.

2)The Executive Engineer, TLC Division, Kurnool

3)The Chairman & Managing Director, A.P.Transco,

Vidyut Soudha, Khairatabad, Hyderabad

4)The Superintending Engineer, A.P.Transco, TL & SS

Circle, Kurnool

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly one in the nature of writ of Mandamus directing the respondents to release the balance of the amounts of up to 25% withheld during the suspension period i.e. 1307.1995 to 22.12.1999; direct the respondents to release the SDP-1 increment in the cadre of AAE from 26.02.1999 and to declare the petitioner eligible for promotion to the post of ADE from 25.02.2004 the date on which his junior was promoted as ADE.

Counsel for the Petitioner: Ms. R.Annapurna.

Counsel for the Respondents: MR. G.Vidya Sagar

The Court made the following :

ORDER:

Heard Ms. R.Annapurna, learned counsel appearing for the petitioner and Sri G.Vidya Sagar, learned counsel appearing on behalf of the respondents.

The only question which arises for consideration in this Writ Petition is as to whether on the facts and circumstances, the petitioner is entitled to retiral and other benefits.

There is no dispute to the basic facts that the petitioner was an employee of the respondents and in view of a case registered by the A.C.B., he was placed under suspension on 17.07.1995 and reinstated on 28.12.1999. The petitioner was acquitted by the competent Court in the case registered by the A.C.B. on 17.07.2003. Subsequently, the petitioner, in the normal course, reached the age of superannuation and retired from service on 30.06.2004. The complaint of the petitioner is that his serial number in the seniority list is 1083 and in spite of the fact that there is a clean acquittal, one junior at serial no.1197 was promoted, and so, the petitioner is also entitled for promotion. In this regard, the petitioner filed a comprehensive representation dated 26.07.2003 and the same is still pending.

Learned counsel for the petitioner submits that having regard to the clean acquittal, the petitioner is entitled to the increments and all other promotional benefits vis-à-vis retiral benefits.

Sri G.Vidya Sagar, learned counsel appearing on behalf of the respondents submits that as against the acquittal in the criminal case, appeal was filed and the same is pending and therefore, any action taken shall be subject to result of the same.

Considering the submissions made and on perusal of the material, it is needless to observe that once there is acquittal in the case registered by the A.C.B., the petitioner is entitled to all the benefits which he normally would have got including the promotion. Admittedly, a junior to the petitioner was promoted. Since the petitioner was acquitted, necessarily the promotion of the petitioner should also date back. Having now retired on 30.06.2004, he is entitled to all retiral benefits. Merely because an appeal against the acquittal is pending, the same can not be a ground to deny the benefits as sought for. In view of the same, it has to be held that the petitioner is entitled to all such benefits to which he is entitled to in the normal circumstances without giving any credence to pendency of the said appeal against the order of appeal.

Accordingly, the Writ Petition is disposed of directing the respondents to consider the petitioner's comprehensive representa-tion filed on 26.07.2003 and pass orders in accordance with law on merits. No costs.

The entire exercise shall be completed within a period of one month from the date of receipt of copy of this Order.

(B.Prakash Rao, J.)

06.04.2005

DRK/Chvn.

Issue copy in seven days.

B.O.

DRK

Copy to:

1)The Joint Managing Director, (H.R.D. Comml. IPC & Retrms), Transmission Corporation of Andhra Pradesh, ITD, Vidyut Soudha, Hyderabad-82.

2)The Executive Engineer, TLC Division, Kurnool

3)The Chairman & Managing Director, A.P.Transco, Vidyut Soudha, Khairatabad, Hyderabad

4)The Superintending Engineer, A.P.Transco, TL & SS Circle, Kurnool

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